IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 811 of 1993

CHHANGANLAL SHARMA
V/S
STATE & ORS

Mr. MR SINGHVI, for the appellant / petitioner

Mr. BL BHATI, A G A, for the respondent

Date of Order : 25.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

The petitioner has filed this writ petition interalia seeking to claim a direction to regularise the services of the petitioner as Telephone Hot Line Operator/PBX Operator from January, 1987, and to give him all consequential benefits. Then, it has also been prayed, that the respondents be directed to fix the salary of the petitioner in the pay scale of L.D.C., as it was in the year 1987, and to revise the same as revised from time to time, and to pay the difference of amount along with interest @ 18%.

The case of the petitioner is that being Higher Secondary pass, he was appointed as Class IV employee in Tehsil Bhilwara in the year 1982. It is claimed, that in view of his qualification he is eligible for being

appointed as L.D.C., under Rajasthan Subordinate Offices (Ministerial Staff) Rules, 1957, hereafter referred to as the Rules of 1957. It is alleged that while so working as Class IV employee, he underwent training under the Telecom Training Centre, Jaipur, with due permission, and completed the same successfully vide Annexure-2. It is then alleged that considering his qualification, vide order dt. 29.1.1987 the petitioner was posted for operating PBX, vide order Annexure-3, and since then he is working as PBX Operator satisfactorily, and has also received appreciation testimonials from time to time. It is also alleged, that post of Hot Line Operator is equivalent to L.D.C., and the persons holding the post of L.D.C. have been posted against such post as well. With this background it is alleged, that the State Government vide communication dt. 14.5.1991, created the posts of Hot Line Operators for Bhilwara and Ajmer, and four posts of L.D.C. were sanctioned for each district. This communication is produced as Annexure-6. Since the posts were created, the petitioner applied for regularisation vide application dt. 30.8.1991 Annexure-7, whereupon the Collector called upon the Board of Revenue to regularise the petitioner vide Annexure-8. Then, the Board of Revenue in turn conveyed its approval vide letter Annexure-9. Then, referring to Rule 25(6) it is claimed, that the petitioner is eligible to be regularised as such.

However, the petitioner apprehended that the posts is contemplated to be filled by newly recruited L.D.C., with the result, that the petitioner is likely to be posted as Class IV, he has filed the present writ petition for the above reliefs.

A reply has been filed on behalf of the respondents, contending that simply because the petitioner possesses the qualification of Higher Secondary, he does not become entitled to be appointed as L.D.C., as the post of L.D.C. is to be filled by the Rajasthan Public Service Commission. It was pleaded that after being appointed as Class IV, at the petitioner's own request, he was permitted to undergo training at Jaipur, but then by merely undergoing training, he does not become entitled to be appointed as PBX Operator/Hot Line Operator. Then, regarding his posting, it was pleaded, that it was for a short time, that for administrative considerations the petitioner was posted, and since now there is no PBX in the office, there is no work available for PBX Operator. Then, regarding the four posts, it was pleaded that for operating Hot Line four posts of L.D.C. were sanctioned, but then, it was stipulated in the communication dt. 14.5.1991, that these posts are to be filled from employees trained for wireless operation from Superintendent of Police' Office,

and accordingly the Superintendent of Police provided constables, and the petitioner was posted to assist them as Class IV employee. It was then pleaded, that later on the State Government, vide order dt. 16.6.1992, directed that these posts be filled by the candidates selected by the R.P.S.C. whose names are forwarded by the Department of Administrative Reforms. Likewise, it was also pleaded that even otherwise the post of L.D.C. is to be filled only to the extent of 15 per cent from Class IV employees by promotion, and since the petitioner is neither selected by the R.P.S.C., nor is eligible for promotion against the said 15% quota, as his name figures at No. 268 in the seniority list. Regarding Annexures 8 and 9, it is pleaded that they are only recommendations of the Collector, and the Board of Revenue, which do not confer any right on the petitioner, as in furtherance thereof, the State Government had not accepted them, nor the petitioner is duly selected by the R.P.S.C., nor his name has been forwarded by the Department of Administrative Reforms, nor is he eligible to be appointed by promotion against 15% quota being junior. Inter alia with these pleadings, it is prayed, that the writ petition be dismissed.

Arguing the writ petition, both the learned counsel maintained their respective submissions as made in

the pleadings.

The matter came up earlier before the Court for hearing on 18.10.2004, at which time the Court directed the learned counsel for the petitioner to inform the present position of the petitioner within two weeks. However, learned counsel for the petitioner informs, that he is not in a position to inform the latest position, as he could not contact the petitioner. On the other hand, learned counsel for the respondent, Mr. Bhati, informs that now there is no PBX, and no work being available for the petitioner, he is already working as Class IV employee only. Be that as it may.

I have considered the submissions, and have gone through the record as available.

At the outset, I may notice Annexure-3 dt. 29.1.1987, whereby the petitioner claims to have been posted as PBX Operator, and a look thereat shows, that thereby only working arrangement was made for smooth running of the PBX, and thereunder the petitioner was directed to work from 9A.M. to 11 A.M., and then excluding period of rest, he was to be on duty in the Reception Room upto 4 P.M. Then, a look at Annexure-6, being the

communication of the Government dt. 14.5.1991, also shows, that thereby four posts were sanctioned, only upto 29.2.1992. In other words, permanent posts were not sanctioned. Obviously Annexure 8 and 9 do not have the effect of appointing the petitioner as PBX Operator or Hot Line Operator, nor do they by themselves confer any right on the petitioner, to be appointed/regularised on the said post.

Admittedly the post of L.D.C. is a direct recruitment post, and can be filled to the extent of 15 per cent by promotion from Class IV employees, obviously, on the basis of prescribed criteria. It is not the case of the petitioner, that he is entitled to be promoted as L.D.C. against the said 15% quota. Likewise, the petitioner does not claim to be a candidate duly selected by the R.P.S.C. In that view of the matter, the orders Annexure-3 and 4 by themselves do not amount to promotion of the petitioner, on the post of PBX Operator or Hot Line Operator, so as to entitle him to claim the reliefs as claimed.

As informed by the learned counsel for the respondent, that the petitioner is already working, only as Class IV employee, and that PBX are no more there, in my view, the petitioner is not entitled to any relief whatever

in this writ petition. The same is, therefore, dismissed. The parties are left to bear their own costs.

(N P GUPTA),J.

/Sushil/